

## 50 CFR Part 17

RIN 1018-AB

**Endangered and Threatened Wildlife and Plants; Grizzly Bear; Proposed Rule to Remove Special Rule Allowing a Limited Special Hunt and Notice of Intent to Revise Special Rule Regulating Taking**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; removal and notice of proposed rulemaking.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to remove the special rule that allows taking of grizzly bears through a special hunt in northwestern Montana. The Service seeks data and comments on this proposed rule. The Service further announces its intention to revise the Grizzly Bear Special Rule to address actions needed due to population pressure within a grizzly bear population.

**DATES:** Comments on the proposed removal of 50 CFR 17.40(b)(1)(i)(E) must be received on or before May 20, 1992 to receive consideration by the Service. After this 30-day comment period, the Service intends to issue a final rule. Because the Service wishes to finalize this action before any spring hunt in Montana could occur in 1992, the final rule will be effective on the date of its publication in the Federal Register. The Service anticipates that a new revised special rule will be proposed and published in the Federal Register within 1 years of this notice.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to: Dr. Christopher Servheen, Grizzly

Bear Recovery Coordinator, Fish and Wildlife Enhancement, NS 312, University of Montana, Missoula, Montana 59812, telephone (406) 329-3223 or FTS 585-3223. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Dr. Christopher Servheen (see ADDRESSES above).

**SUPPLEMENTARY INFORMATION:**

**Background**

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service) Endangered Species Program. The Service may propose special rules providing for the conservation of threatened species including taking prohibitions. The Service published a Grizzly Bear Special Rule (50 CFR 17.40) in 1975 dealing with limiting the number of grizzly bears killed from all human-related causes. This special rule included authorization of a limited special hunt of grizzly bears in northwestern Montana. A revision of this special rule was published in the Federal Register (51 FR 33753) in 1986.

The Service hereby proposes to remove 50 CFR 17.40(b)(1)(i)(E) that allows a special hunt of grizzly bears in northwestern Montana. The proposed removal of the authorization for the special hunt in Montana is to allow time to revise the existing special rule based on current biological information, so that the special rule would be consistent with the Memorandum Opinion of the U.S. District Court, District of Columbia, in *The Fund for Animals, Inc. v. Turner*, Civil No. 91-2201(MB) dated September 27, 1991. This opinion declared 50 CFR 17.40(b)(1)(i)(E) to be invalid and enjoined the Service from authorizing the grizzly bear hunt. In response to the court's rulings, the Service needs to withdraw 50 CFR 17.40(b)(1)(i)(E). The

proposed removal of the authorization of the special hunt in Montana will, in no way, change the remainder of the Grizzly Bear Special Rule in 50 CFR 17.40(b).

The Service also announces its intention to revise the Grizzly Bear Special Rule (50 CFR 17.40(b)) to address alternate methods of dealing with nuisance bears and human-grizzly bear conflicts, and of managing documented excessive population pressures of grizzly bears. In revising the special rule, the Service will consider the most appropriate methods for reducing human-grizzly bear conflicts, in order to ensure maintenance of sufficient grizzly bear population numbers and distribution to further the recovery of the grizzly bear.

The Service also will propose to clarify applicability of prohibitions and exceptions and to revise reporting requirements for taking of grizzly bears in self-defense, or defense of others, to expedite and promote law enforcement investigations of such takings. Reporting requirements will be revised to allow more complete law enforcement investigation of such takings.

**Public Comments Solicited**

The Service solicits written comments on the proposed removal of 50 CFR 17.40(b)(1)(i)(E). All comments received by the date specified above will be considered prior to the final determination. The Service will seek comments and data from the public when it proposes the revised Grizzly Bear Special Rule.

**National Environmental Policy Act**

An environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, was prepared for the 1986 revision (51 FR 33753) of the Grizzly Bear Special Rule. The elimination of the sport hunt of grizzly bears, which is the result of the removal of 50 CFR 17.40(b)(1)(i)(E), was covered under Alternative D of this environmental assessment.

This environmental assessment is available to the public from Dr. Chris Servheen (see **ADDRESSES** above).

#### **Author**

The primary author of this notice is Patricia Worthing, Region 6 Recovery Coordinator, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, telephone (303) 236-7398 or FTS 776-7398.

#### **List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

#### **Proposed Regulation Removal**

Accordingly, it is hereby proposed to remove and reserve § 17.40(b)(1)(i)(E), subchapter B of chapter I, title 50 of the Code of Federal Regulations.

#### **PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

#### **§ 17.40 [Amended]**

2. It is proposed to remove and reserve § 17.40(b)(1)(i)(E).

Dated: April 7, 1992.

**Richard N. Smith,**  
*Acting Director.*

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